

M A N I T O B A ) Order No. 152/00  
)  
THE HIGHWAYS PROTECTION ACT ) December 4, 2000

BEFORE: G. D. Forrest, Chairman  
R. Mayer, Q.C., Vice-Chairman

**APPEAL OF TOWN OF THE PAS REGARDING HIGHWAY  
TRAFFIC BOARD PERMIT NO. 114-00**

---

**APPEARANCES:**

Mr. Robert Adkins	Counsel for the Town of The Pas
Mr. Charles Chappell	Counsel for Friends of Devon Park
	Representing Highways & Government Services:
Mr. Eric Christiansen, P.Eng.	Director, Highway Planning & Design
Mr. Brent Magnusson, P.Eng.	Senior Functional Design Engineer
Mr. Richard Nichol	Senior Access Management Analyst

**WITNESSES:**

Richard S. Tebinka, P.Eng. Project Manager & Vice President ND LEA Engineers & Planners Inc.	For the Town of The Pas
Russ Adamson, P.Eng. Consultant Traffic Engineer	For Friends of Devon Park

**INTERVENORS OF RECORD:**

Department of Highways & Government Services  
Friends of Devon Park

**PRESENTERS:**

Virgina C. M. Breton-Jones	Citizen
Nancy Carley	Citizen
Betty Chun	Citizen
Gary Hopper	Mayor of The Pas
Edwin Johanson	Citizen
Don Kennedy	Citizen
Ellen Long	Citizen
Florence Morrish	Citizen
Evans Premachuk	Citizen
Fletcher Stewart	Citizen

**BACKGROUND:**

Pursuant to The Highway Protection Act, the Town of The Pas (the "Applicant") made Application to the Highway Traffic Board for approval of building and parking area and an access driveway (commercial) onto Provincial Trunk Highway (PTH) No. 10, from Lots 1 and 2, Plan 33677 and Lot 4, Block "E", Lot 4, 13 & 17, Block "F", Lot 13, Block "G" all of Plan 587, Sec 9-56-26W, Town of The Pas (the subject property). The Highway Traffic Board held a hearing on the Application on Wednesday, May 31, 2000 and issued its decision by way of Permit No. 114-00 dated June 27, 2000.

The Permit allowed for a Building, parking Lot and Right Turn Access Driveway. The Building Size is 67.74 meters × 38.13 meters and is to be set back 62 meters from the Highway Right-of-Way and the Parking Lot is to be set back 5 meters. A

Right Turn only Access Driveway located 146.0 meters south of the foot of the bridge is to be constructed to the Department of Highways specifications. Permit and sketch plan is attached as Appendix "A".

On July 17, 2000 the Town of The Pas pursuant to Section 21 of The Highway Protection Act appealed the decision to The Public Utilities Board.

**THE APPEAL APPLICATION**

In its letter of Appeal, the Town noted that it was appealing pursuant to Section 21(2) and (3) of The Highways Protection Act on the basis that contrary to its Application to the Highway Traffic Board, the permit only provides a means of ingress for south bound traffic off of PTH No. 10 which means that most traffic would be entering or leaving via 1<sup>st</sup> Street, over lands which are neither owned by the Town, nor part of the site to be serviced by access.

The grounds for the appeal noted were that the Highway Traffic Board failed to consider the evidence or the weight of the Applicant's evidence at the hearing, that the proposed access as set out was consistent with The Highways Protection Act, that the location of the major access as set out in the sketch was not owned by the Applicant, and that the Town's approved Development Plan was not properly considered.

**EVIDENCE OF MR. TEBINKA**

Mr. Tebinka of ND LEA, Consultants to the Town in its presentation before the Board, testified on the investigation carried out as part of the review of the original proposal submitted to the Highway Traffic Board, on the access option termed the "L and "T" proposal and finally on a staged access proposal that accommodates the development and the concerns previously raised by the Highways Department.

Mr. Tebinka noted that they had met with the Department of Highways, examined the records of the Highway Traffic Board decision and felt that changes could be made to accommodate all concerns. He further noted that the sight lines were based on the "Geometric Design Guide for Canadian Roads".

Site visits were made by Mr. Tebinka on July 25 and September 26, 2000 field and traffic observations were made on these occasions. Peak hour traffic count and vehicle classification survey were done on September 26<sup>th</sup>. Pedestrian counts were undertaken from 11 a.m. to 2:30 p.m., from 3:30 p.m. to 8:00 p.m. which timing included the occurrence of a hockey game which normally results in significant traffic volume in the area. Travel time runs were made through the curve south of the proposed access at varying speeds.

### **GAP STUDY**

A gap study involves timing gaps between vehicles in existing traffic to estimate the number of vehicles that could turn using available gaps. Gaps were measured between 3:00 - 6:00 p.m., the busiest time period for PTH No. 10 traffic. Gaps were measured for left turns inbound to the site and for left turns out of the site based on a minimum gap of 7.5 seconds. Capacity for left turns in traffic was estimated at 184 vehicles based on peak hour (4:00 - 5:00 p.m.) as compared to a forecast demand of 67 vehicles or 36% of capacity. Left-out capacity was estimated at 97 vehicles compared to a forecast demand of 31 vehicles or 32% of capacity. Mr. Tebinka submitted that sufficient gaps exist in PTH No. 10 traffic to accommodate left turn in-bound and out-bound movements.

### **TRAFFIC COUNT**

Based on information collected from Manitoba Highways, Wardrop Engineering and ND LEA, traffic volume was estimated at 10,000 vehicles per day on this part of the Highway. The percentage of trucks ranges from 7% to 13% and varies with activities at the lumber mill. Pedestrian count totalled 93 during the 8 hour count and 9 during the p.m. per hour. Another 113 pedestrians (22 in the peak hour) crossed the field west of PTH No. 10 from the bridge towards First Street. 70% of all pedestrians were on the west side of the roadway.

**RCMP REVIEW**

The RCMP was asked by the Applicant's consultants to provide written comment on a number of issues based on their experience with traffic in the area. The RCMP had no accident data or statistics, but concluded that Ross Avenue as a Primary Access would be unsafe. Speeds were estimated to be in the 50 to 60 km/h range with speed closer to 30 km/h near the curve to 1<sup>st</sup> Street. It was noted that there were no complaints of excessive speeding in the area, nor were there a significant number of accidents in the area or a significant blockage of the bridge in the last 14 years due to accidents. The road conditions on this section of the road during the winter was described as good. It was also noted that the addition of two turn lanes could reduce the possibility of blockage of the roadway and allow for rerouting traffic. It was also noted that the number of accidents involving large trucks were few. In the RCMP's opinion a Ross Avenue access would be considered dangerous given the level of activity on 1st Street. A "T" intersection of PTH No. 10 as per staged concept was considered safer than the Ross Avenue option.

**ROSS AVENUE PROPOSAL**

The Town also reviewed the Department of Highways proposal for use of Ross Avenue. It was noted that traffic volumes were the same at this location, property for street widening was not readily available, sight lines were significantly affected by power poles, hedges, fencing and on street parking. The proximity of the access to the emergency

access of the hospital and the new extended care home was also noted. It was also noted that the land for the proposed access was owned by a private party who did not wish to sell the property.

#### **THE "L" and "T" PROPOSAL**

The Town considered an "L" proposal which would in effect reconfigure the transition curve between PTH No. 10 and 1<sup>st</sup> Street as an "L" intersection. The concept was further refined creating a "T" intersection with Lathlin Avenue. The Town noted the linkage that these plans would have with the future extension of PTH No. 10 as well as the advantages and disadvantages to the motoring public.

#### **THE "STAGED" PROPOSAL**

This proposal by the consultant and presented to the Board on behalf of the Town evolved to address concerns raised by the Department of Highways with respect to separation from the bridge to the north and conformity with the long term plans for PTH No. 10. The proposal would allow access directly to PTH 10 between the bridge and the curve at the centre of the subject property. The proposal includes the following access features. A southbound right-turn lane, a northbound left-turn lane, two exit lanes from the subject property, no internal aisles within 60 meters of PTH No. 10 right of way. A sidewalk constructed on the east side of PTH No. 10 between the proposed approach and Lathlin Avenue and an emergency access at the rear of the site. The proposal also calls for restricted hours for

truck access to the site and the provision of traffic control signals with northbound advanced warning signage. There was no right turn exit turning lane including in the proposal.

This proposal will result in the sight distance northward to the bridge increasing by 25 meters for a total available sight distance of 190 meters which is in excess of Transportation Association of Canada minimum requirements for stopping, intersection and decision sight distances. To the south, the available sight distance is reduced by approximately 25 meters to 130 meters, minimum stopping and intersection sight distances are met but minimum decision sight distance is not met. To deal with this reduction a traffic signal is proposed for the approach with north bound advanced warning signage. A number of advantages were identified which include additional separation between the approach and the bridge to the north as well as increased separation between 1<sup>st</sup> Street and the approach as compared to the "L" option. This option also accommodates any future realignment plans for PTH No. 10 with minimized throwaway costs. Disadvantages identified include the possible relocation of the traffic signals in the future, the need for advanced warning for northbound traffic with roadway control. The priority would be given to Highway traffic with a short green time to development traffic. The installation of the traffic signal would be at no cost to the Department. The Town also indicated that all of the costs of signals and road improvements associated with access would be borne by the developer. Mr. Tebinka submitted that the "staged" concept is preferable to the other options.

**OTHER STUDIES**

The Town of The Pas is currently examining the feasibility of widening 1<sup>st</sup> Street/PTH No. 10 transition to accommodate a left turn to Cook Avenue, the Province is examining access and traffic control north of the river and the Province and the Town is looking at a area wide study on the alignment of PTH No. 10. The study north of the river is to be ready in 2001. The area wide study has not been formalized and as yet has not been scheduled to commence.

In conclusion the Town submitted that the Application should be looked at in the context of the nature of the surrounding area. Specifically the fact that there was significant development to the north of the proposed access with plans for additional development. This major retail development would be of benefit to the Town but would also fit into the emerging "urban" nature of this part of the highway. The Town submitted that they retained the experts to examine the issues and suggested that the right solutions to the problems have now been presented. The Town recommended that access to the proposed commercial site west of PTH No. 10 be based on the "staged proposal" as illustrated in Figure 14 of their evidence. See Appendix "B" to this Order.

The Town submitted that the original proposal with modifications and now known as the "staged proposal" meets all of the concerns of safety. The development north of the bridge was also noted and with urban type development occurring there, the traffic slowdown occurs north of the bridge. The Town also

noted that the Highways Department agrees with their proposal in principle; and suggested that the evidence of Friends which was based on the old proposal raised the same issues of safety as the Department had previously identified.

**THE DEPARTMENT OF HIGHWAYS**

The Department noted that when the matter was heard before the Highway Traffic Board their analysis did not conclusively indicate that visibility was adequate to ensure the safe operation of this intersection on the highway and a decision was made to "err on the side of safety" and not support the access. The Department noted an average annual daily traffic count of 8,000 of which 13% is trucks and significant pedestrian traffic was observed on and around the bridge approaches. The Department concluded that access based on the Town's initial engineering report presented to the Highway Traffic Board was not desirable. The Department also felt that the sight lines were "at best" marginal at the location of the proposed access. The Department further noted the importance of the highway linking communities and industries in the northwestern corner of the province. The Department felt that the approval of marginally safe or unsafe access would set a precedent which other property owners will expect resulting in a deterioration of motorist safety.

The Department has now considered alternatives to accessing the site which potentially will meet the safety concerns adequately. The Department has met with Town officials and both will in the next fiscal year undertake a

transportation study of the downtown area up to the bridge. A starting date for this study could not be given. The Department indicated that they had reviewed a number of proposals with the current consultants to the Town, ND LEA. The major safety issue identified is the maximization of the sight distance from both the north and the south. The Department indicated that after a detailed review of the "L", the "T" and the "staged" proposal, it was their opinion that the "staged" proposal adequately addressed the Department's concerns on safety. By way of letter dated October 18, 2000 the Department indicated that it "agreed in principle" with the "staged" proposal as submitted to the Board by the Town . The Department noted that the proposed location combined with the on highway/on site improvements recommended, the installation of traffic signals prior to the site becoming operational adequately met the Department's safety concerns in this instance.

The Department recommended that the applicant Town be required to enter into an agreement with Manitoba Highways such that the Town would cover all costs associated with the provision of any highway improvements necessary to accommodate this access and development at this location.

The Highways Department noted the urban development on the south side of the bridge as well as the developments to the north of the bridge. The Department acknowledged that there would be a reduction in the level of service on this part of the highway. However it was the Department's position after

careful consideration that they would support the "staged" approach concept as submitted by the Town and ND LEA.

**THE FRIENDS OF DEVON PARK**

**Evidence of Mr. Adamson**

Mr. Adamson, on behalf of The Friends of Devon Park (the "Friends") submitted traffic collision data indicating that in the 5-year period January 1, 1995 to January 1, 2000 11 collisions occurred in the 200 metre area between the south end of the bridge and the curve on PTH No. 10. It was noted that adverse road conditions were a contributing factor in 6 of these collisions. Ten of these collisions were multiple vehicle incidents, 7 of which were rear-end collisions. The Board notes that this information appears to conflict with the RCMP recollections of the access area history.

A radar study was undertaken on September 23, 2000 by Mr. Ross Adamson, P.Eng. witness for the Friends. The study measured traffic speeds at a point midway between the south-end of the bridge and the curve 200 meters further south. Noting that the speed limit in this area is 50 km/h the study observed the following travel pattern for the free flowing traffic:

85<sup>th</sup> percentile speed - 60 km/h  
traffic exceeding 50 km/h - 75%  
traffic exceeding 60 km/h - 18%  
traffic in pace range (45 - 60 km/h - 79%)

The witness also noted the Town of The Pas/Department of Highways traffic count in 1999 of 965 vehicles per hour (16 vehicles/minute), a growth factor determined by the University of Manitoba of 0.7% and a truck traffic volume of 10%.

Mr. Adamson, commenting on the original proposal submitted to the Highway Traffic Board submitted that the peak hour traffic volumes and the observed activity on the morning of September 23<sup>rd</sup> indicate that there would be insufficient gaps in the traffic stream for vehicles to enter an uncontrolled intersection at the proposed location. The lack of gaps would result in excessive delays for motorists attempting to gain access to PTH No. 10 from the development, resulting in an unacceptable high collision experience especially during peak hours. It was submitted that if an intersection was to be allowed, it should be controlled by traffic lights.

Friends suggested that given the conditions at the site, sight distance is approximately 100 meters from either side. Using calculations based on stopping sight distances, the total stopping sight distance for a car was estimated to be 85 meters and a truck to be 130 meters. It was noted that the trucks would in fact exceed the available sight distance of 100 meters as well as the 18% of the full flowing traffic which exceeds 60 km/h.

Friends further suggested however that since in 6 of the 11 collisions in the past 5 years adverse road conditions were a contributing factor, the installation of a signalized intersection would most likely lead to a significant increase

in the collision experience. In addition relatively high travel speeds, limited sight distances under adverse road conditions will contribute to an increased collision experience.

Friends also noted that stopped trucks would have to accelerate at a 2% grade which would result in slow moving northbound trucks and any vehicles following it resulting in a lower level of service on the highway and the acceleration of long term capacity problems. Friends submitted that the effectiveness of advance signals in conjunction with the intersection signals was questionable given short distances at which they would be located.

In concluding Friends submitted that the proposed "staged" proposal was inadequate. Friends noted that the sight distance was marginal at best. Trucks will be moving at a slow speed in the area while other traffic moves at a higher speed. Friends took the position that traffic operations safety would significantly be compromised if a signalized intersection were installed at the proposed location. The strategic importance of the highway was also noted. The Friends suggested that the intersection shouldn't be permitted as it would result in significant reduction in the level of service on PTH No. 10 and an increase in the collision experience.

Friends further submitted that their paramount concern was one of safety. Noting that two studies were being done for both south and north of the river as well as the reference to "throw away costs" the Friends suggested that the

Application was premature. The Friends submitted that the various studies should be first completed so that all alternatives could be examined. The Friends suggested that the hearing should be adjourned pending the reports being done.

**PRESENTERS**

**Mr. Gary Hopper, Mayor of the Town of The Pas**

The Mayor noted that access as allowed by Highway Traffic Board Permit No. 114-00 was not acceptable to the Town as its experts were advising that an all directional access was as safe as or safer than that allowed by the permit. The Mayor also noted that the permit required access to land which it was unwilling to expropriate. The Mayor also noted that the Town's development plan called for the development of this area as part of the economic development of the community. The Mayor noted that the Town had retained the services of ND LEA to conduct an independent review of the access plan and expressed satisfaction that the previously expressed concerns of pedestrian and vehicular safety were met.

**Mr. Fletcher Stewart**

Mr. Stewart indicated that he frequently traveled that part of PTH No. 10. He submitted that there is a high volume of vehicles using the roadway. He noted the negative effects of weather on safety indicating that this is especially so in the presence of snow, fog, ice and rain. Mr. Stewart indicated that he had two concerns. His first concern dealt

with the vision whereby open space was being converted to development and he noted that this was dealt with elsewhere. His second concern was the impact of the location of the access. He suggested that to place a magnet for traffic on this location was madness. He further suggested that the solution, the proposed installation of traffic lights, further compounds the problem. Mr. Stewart also noted the distraction of the Canadian Tire Store together with the traffic lights and suggested this distraction could cause traffic to back up with its attendant problem. Mr. Stewart noted that the building is completely surrounded and that there would be no opportunity for integration. Mr. Stewart submitted that access should not be granted.

**Mr. Don Kennedy**

Mr. Kennedy submitted that the proposed development was an example of poor economic planning. He noted the proximity of the hospital to the development. He also noted that various chemicals and dangerous goods are frequently transported on the highway and as such safety is compromised, the access will increase the possibility of spills. Mr. Kennedy submitted generally that the Town gains little in taxes from retail development. Mr. Kennedy noted that there were approximately 300 members in his association. Mr. Kennedy subsequently filed letters with the Board.

**Mr. Edwin Johanson**

Mr. Johanson noted that he has been a long time resident of The Pas and is quite familiar with the surrounding areas and issues on the development of the north. Mr. Johanson noted that safety is the issue of concern and in bad weather with snow, fog and ice the bridge could be very dangerous. He felt that there was a need for better planning on the part of all parties from a safety standpoint.

**Mr. Evans Premachuk**

The Board received a written presentation from Mr. Premachuk dated October 20, 2000. Mr. Premachuk noted that he felt "that access is vital to enable the Town to try and compete with the government neighbours".

**Ms. Florence Morrish**

Ms. Morrish advised by written presentation dated October 12, 2000, that she is in opposition to the Town's request for access onto PTH NO. 10. She noted the issue of safety and submitted that the public should not be endangered so that the developer can have access of the highway. Ms. Morrish also noted that the bridge was the only exit for northbound traffic and that lives could be in jeopardy in an emergency situation. Finally Ms. Morrish noted that the main issue is the park and its significance to the Town.

**Ms. Ellen Long**

Ms. Long by written presentation dated October 13, 2000, asked the Board to uphold the decision of the Highway Traffic Board as per permit No. 114-00. Ms. Long noted that daily access to the bridge and 1st Street is required by employees of the Town's major employer, Toko by all who live on one side of the bridge and work on the other, loggers and other truckers, cottagers and travelers. Ms. Long further submitted that unimpeded access to the hospital and airports is imperative and that adding more exit ramps can cause further congestion and threat to safety. Ms. Long expressed the hope that due consideration be given to the issue of public safety.

**Ms. Nancy Carley**

Ms. Carley by written presentation dated October 10, 2000 noted that traffic in The Pas has increased in the past few years causing concerns in a number of areas specifically 1st Street in the area of the new personal care home, the hospital and Catholic Church. Ms. Carley submitted that adding another intersection and traffic volumes would increase the problems in this area. Ms. Carley further noted the Town's previous development plan which spoke to development in that area.

**Ms. Betty Chun**

Ms. Chun by written presentation dated August 29, 2000 submitted that the safety of both pedestrians and

vehicular traffic in that area were at risk. Ms. Chun noted that in the winter you have bumper to bumper traffic southbound as the shift changes at the mill and the northbound lane in a similar state as workers from town head home or to shop at the mall. Furthermore, each vehicle moves in a cloud of frozen exhaust with little visibility. Ms. Chun submitted that her concern is for the continued beauty, peace and safety of the Town and its citizens and the people in the surrounding areas.

**Ms. Virginia C. M. Breton-Jones**

Ms. Breton-Jones by written presentation dated October 24, 2000 urged the Board to uphold Highway Traffic Board Permit No. 114-00. She submitted that the proximity to the bridge, the curve and the hospital seems, dangerous. Ms. Breton-Jones also noted the significant amount of traffic that must use the highway which includes the Town's major employer, the airport and the numerous communities to the North. As the only crossing of the river, she submitted that further congestion could jeopardize lives and compromise access to the hospital.

**BOARD FINDINGS**

The Board wishes to thank the Applicant Town, the Department of Highways, the Friends of Devon Park and the many citizens who contributed to this process. The Board notes the over-riding concerns of all with respect to the issue of safety and the sincere concern for the well being of the community.

The Board finds that the frequency of accidents in the area to be significant. The Board is concerned about the sight lines and the speed of traffic in the area of the proposed access. The Board however, believes that a well designed, well lit intersection with adequate warning signs should enhance public safety in the area.

While the Board notes that a number of traffic studies are being considered the Board does not believe that such studies are imminent and is prepared to consider the matter at this time.

The Board is concerned with the adequacy of the sight lines which would result from the construction of an access. The Board notes the evidence submitted by the applicant indicating that while the sight distance northward to the bridge is in excess of the minimum requirements, the sight distance to the south is reduced and does not meet minimum decision sight distance. The Board is further concerned about the sight lines based on the presentations which indicated the occurrence of fog in the vicinity, the possible distraction of the bridge, the scenery and the development itself. The Board notes the recommendation of the witness for the Town which proposes the use of a traffic signal and northbound advanced warning signage.

The Board notes the information provided by the RCMP and the "Friends" on the speed of vehicles travelling in this area which speed is frequently above the posted speed limit of 50 km/h. The Board also notes similar concerns about

the sight lines were raised by the Department of Highways and the Friends of Devon Park and notes their respective position on signal lights. The Board is of the opinion that the sight lines are marginal and that it is necessary to mitigate the risks associated with truck traffic which require a greater stopping distance as well as vehicles travelling at speeds greater than the posted rates. The Board concurs with the witness for the Town and will require the installation of traffic signals but with activated advanced warning devices north and south of the intersection.

The Board heard many concerns expressed about the volume of traffic using the roadway the nature of the traffic at peak hours, the use of the roadway by trucks and the importance of the roadway to the many communities further north. The Board is of the opinion that the significance of PTH No. 10 should not be underestimated and that any hindrance to the free flow of traffic should be mitigated. The Board will approve the "staged" proposal which require a south bound right turn site entry lane, a north bound left turn site entry lane, two exit lanes and no internal aisles within 60 meters of PTH No. 10. The Board is of the opinion that these turning lanes should be of the maximum possible length considering both the bridge and the curve. This will minimize the need for traffic proceeding straight through the intersection to slow down to accommodate vehicles slowing to turn into the development. The Board is concerned that the intersection design has not been fully defined; lane lengths and tapers need to be consistent with Highways Department Standards for signalized T intersections, a site exit acceleration taper also

needs to be added. The Board also concurs with the recommendations that a sidewalk be constructed on the east side of PTH NO. 10 between the proposed approach and Lathlin Avenue, and that there be an emergency access at the rear of the site.

The Board notes the recommendation of the Department of Highways that the Town enter into an agreement with the Department to cover all costs associated with the provision of any highway improvements. The Board also notes the statement by the Mayor that all of the costs of signals and road improvements associated with the access would be borne by the developer. This would include any costs arising out the subsequent relocation of the lights. There would however appear to be a need for the submission, and approval of detailed plans of the intersection and other road improvements to the appropriate authority.

**IT IS THEREFORE ORDERED THAT:**

Consistent with the Department of Manitoba Highways Standards for a signalized T-intersection, the approved site access must include:

1. A traffic signal controller.
2. A southbound right turn site entry deceleration lane.

3. Widening of PTH 10 on the east side to accommodate a northbound left turn site entry deceleration lane.
4. Two exit lanes from the development to accommodate left turn and right turn out of the site; the latter to include a site exit taper lane.
5. No internal aisles accessing the site exit lanes within 60 meters of PTH 10 southbound pavement edge.
6. A sidewalk constructed on the east side of PTH 10 between the north limit of the approach intersection and Lathlin Avenue.
7. Activated advance warning devices approximately located on the bridge, north of the new intersection and approximately located on the eastbound PTH 10/First Street sketch prior to the curve.
8. An emergency exit at the rear of the site.
9. The Town of The Pas shall enter into an agreement with the Province of Manitoba (Department of Highways) affirming that the cost of all the necessary highway improvements/modifications will be borne by the applicant/developer.

